

**HB**

**269**

<TARGET><BILL>HB 269</BILL><SUBJECT>HB  
269</SUBJECT><COMM>HJUD28</COMM></TARGET>



**CS FOR HOUSE BILL NO. 269(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES THOMPSON, Hughes

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to immunity for health care providers who provide health care services  
2 voluntarily and without pay; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 09.65.300(a) is amended to read:

5 (a) Except as otherwise provided in this section, a health care provider who  
6 provides health care services to another person is not liable for civil damages resulting  
7 from an act or omission in providing the health care services if the health care

8 (1) provider is licensed in this state to provide health care services; in  
9 this paragraph, "health care provider" includes a health care provider who holds  
10 a temporary license or permit to practice as a health care provider;

11 (2) services provided were within the scope of the health care  
12 provider's license;

13 (3) services were provided at a medical clinic, medical facility,  
14 nonprofit facility, temporary emergency site, or other facility owned or operated by a

1 governmental entity or nonprofit organization and the health care provider was acting  
 2 within the scope of the provider's responsibilities in the medical clinic, governmental  
 3 entity, or nonprofit organization;

4 (4) services were provided voluntarily and without pay to the health  
 5 care provider for the services, except as provided in (b)(2) and (3) of this section; and

6 (5) provider

7 (A) obtains informed consent in writing from the person  
 8 receiving the health care services as described under AS 09.55.556, except in  
 9 the case of an emergency; [AND]

10 (B) provides the person receiving the health care services  
 11 advance written notice of the immunity provided under this section to a health  
 12 care provider when providing voluntary health care services as described under  
 13 this section; and

14 (C) provides the person receiving health care services with  
 15 written notice of the name of a licensed health care provider in the state  
 16 that the person receiving health care services may contact for emergency  
 17 follow-up care within 30 days after a procedure is performed.

18 \* Sec. 2. AS 09.65.300(c)(1) is amended to read:

19 (1) "health care provider" means a [STATE LICENSED] physician,  
 20 physician assistant, dentist, dental hygienist, osteopath, optometrist, chiropractor,  
 21 registered nurse, practical nurse, nurse midwife, advanced nurse practitioner,  
 22 naturopath, physical therapist, occupational therapist, marital and family therapist,  
 23 psychologist, psychological associate, licensed clinical social worker, or certified  
 24 direct-entry midwife;

25 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE

**Session:**  
State Capitol Building  
Room 500  
Juneau, Alaska 99801-2186  
Phone (907) 465-3004  
Toll Free: (877) 465-3004



**Interim:**  
1292 Sadler Way  
Room 323  
Fairbanks, Alaska 99701  
Phone: (907) 452-1088

## REPRESENTATIVE STEVE THOMPSON DISTRICT 3

### MEMORANDUM

To: Representative Wes Keller, Chairman  
House Judiciary Committee

From: Representative Steve Thompson

A handwritten signature in black ink, appearing to read "SMT", is written over the printed name of Representative Steve Thompson.

Date: February 17, 2014

Re: Hearing request for HB 269 "An Act providing immunity for certain licensed temporary healthcare providers who provide free health care services."

---

Please accept this memorandum as a request for HB 269 to be heard in the House Judiciary. Attached are the following documents:

- HB 269 – Sponsor Statement
- HB 269 – Bill version N (HSS)
- HB 269 – Bill version A
- HB 269 – Explanation of Changes version A to version N
- HB 269 – Sectional Summary
- HB 269 – Fiscal Note CSSD
- HB 269 – Fiscal Note LAW
- HB 269 – Support Alaska Dental Society support document
- HB 269 – Support AK Mission of Mercy Information
- HB 269 – Letter of Support, United Way 2/11/14
- HB 269 – Letter of Support, Alaska Native Medical Center
- HB 269 – Letter of Support, Alaska State Medical Association, 2/10/14
- HB 269 – Legal Opinion, Legislative Legal Services 2/13/14
- HB 269 – Legal Opinion, DOL 8/19/13
- HB 269 – Legal Opinion, Legislative Legal Services 1/13/14

# ALASKA STATE LEGISLATURE

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## REPRESENTATIVE STEVE THOMPSON DISTRICT 3

### Sponsor Statement HB 269

**“An Act providing immunity for certain licensed temporary health care providers who provide free health care services.”**

HB 269 was drafted due to liability concerns surrounding an inaugural Alaska Mission of Mercy (AKMOM) event organized by the Alaska Dental Society, and scheduled in Anchorage this coming April. The Mission of Mercy program was started by a group of dentists thirteen years ago in Virginia. The MOM programs provide free dental care to local residents who would not otherwise have access to affordable dental care. To date, the Mission of Mercy Program in Alaska has 187 dentist volunteers, seven from out-of-state. The AKMOM program will provide extractions, fillings and cleanings as well as other procedures that can be appropriately performed in a mission setting. Out-of-State dental professionals will be licensed to provide pro bono services under courtesy licenses issued by the Alaska Board of Dental Examiners. A courtesy license is a medical professional license issued by the Board for the purposes of providing free services and enforcing state disciplinary provisions.

The problem is that there is no clear answer as to whether an out-of-state dental professional issued a courtesy license is covered under Alaska Statute 09.65.300. AS 09.65.300 provides statutory immunity against civil damages resulting from an act or omission of a health care provider who provides free health care services, within the scope of their license. Under AS 09.65.300 a patient must receive written notice of this immunity as well as giving informed consent before any medical service is provided. Under AS 09.65.300 patients still have the right to sue the medical provider for civil damages resulting from the provider's gross negligence, or reckless or intentional misconduct.

Unfortunately, it is unclear whether these out-of-state dental professionals, participating in the AKMOM event qualify under AS 09.65.300, the Volunteer Health Care Provider Immunity Act of 2004. The original purpose of the statute was to allow retired Alaska physicians to volunteer their services. The Department of Law opines that the meaning of the law will ultimately have to be interpreted in a court case.

HB 269 will clarify AS 09.65.300, ensuring that civil immunity is extended to these out-of-state medical professionals who are licensed to provide dental services in Alaska during the Mission of Mercy Event, without having the issue come before a lengthy proceeding before the Court.

Please join Representative Thompson in supporting this legislation.

E-mail [Representative\\_Steve\\_Thompson@akleg.gov](mailto:Representative_Steve_Thompson@akleg.gov)

AMENDMENT

*adopted unanimously*

OFFERED IN THE HOUSE

TO: CSHB 269(JUD), Draft Version "C"

- 1 Page 1, line 10:
- 2 Delete "courtesy license"
- 3 Insert "license or permit"
- 4
- 5 Page 1, lines 10 - 11:
- 6 Delete "under AS 08.01.062"

28-LS1251\C  
Wallace  
2/28/14

**CS FOR HOUSE BILL NO. 269(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES THOMPSON, Hughes**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to immunity for health care providers who provide health care services**  
2 **voluntarily and without pay; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* Section 1. AS 09.65.300(a) is amended to read:

5 (a) Except as otherwise provided in this section, a health care provider who  
6 provides health care services to another person is not liable for civil damages resulting  
7 from an act or omission in providing the health care services if the health care

8 (1) provider is licensed in this state to provide health care services; in  
9 this paragraph, "health care provider" includes a health care provider who holds  
10 a temporary courtesy license to practice as a health care provider under  
11 AS 08.01.062:

12 (2) services provided were within the scope of the health care  
13 provider's license;

14 (3) services were provided at a medical clinic, medical facility,

1 nonprofit facility, temporary emergency site, or other facility owned or operated by a  
2 governmental entity or nonprofit organization and the health care provider was acting  
3 within the scope of the provider's responsibilities in the medical clinic, governmental  
4 entity, or nonprofit organization;

5 (4) services were provided voluntarily and without pay to the health  
6 care provider for the services, except as provided in (b)(2) and (3) of this section; and

7 (5) provider

8 (A) obtains informed consent in writing from the person  
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15 (C) provides the person receiving health care services with  
16 written notice of the name of a licensed health care provider in the state  
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18 follow-up care within 30 days after a procedure is performed.

19 \* Sec. 2. AS 09.65.300(c)(1) is amended to read:

20 (1) "health care provider" means a [STATE LICENSED] physician,  
21 physician assistant, dentist, dental hygienist, osteopath, optometrist, chiropractor,  
22 registered nurse, practical nurse, nurse midwife, advanced nurse practitioner,  
23 naturopath, physical therapist, occupational therapist, marital and family therapist,  
24 psychologist, psychological associate, licensed clinical social worker, or certified  
25 direct-entry midwife;

26 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

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## REPRESENTATIVE STEVE THOMPSON DISTRICT 3

### HB 269 Explanation of Differences version A to version U

**“An Act providing immunity for certain licensed temporary health care providers who provide free health care services.”**

**Section 3** Adds an immediate effective date.

E-mail [Representative\\_Steve\\_Thompson@akleg.gov](mailto:Representative_Steve_Thompson@akleg.gov)

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## REPRESENTATIVE STEVE THOMPSON DISTRICT 3

### HB 269 Sectional Summary

**“An Act providing immunity for certain licensed temporary health care providers who provide free health care services.”**

**Section 1.** Amends AS 09.65.300(a)(1) to include healthcare providers who hold temporary courtesy licenses issued under AS 08.01.062.

**Section 2.** Amends AS 09.65.300(c)(1) to change the definition of a health care provider in this section by removing the words “state licensed”, since it is covered in Section 1 of the bill.

**Section 3.** Adds an immediate effective date

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSHB 269(HSS)  
Fiscal Note Number: 1  
(H) Publish Date: 2/17/14

Identifier: HB269-DCCED-CBPL-02-06-2014  
Title: IMMUNITY FOR TEMP. HEALTH CARE PROVIDER  
Sponsor: THOMPSON  
Requester: House Health and Social Services

Department: Department of Commerce, Community and Economic Development  
Appropriation: Corporations, Business and Professional Licensing  
Allocation: Corporations, Business and Professional Licensing  
OMB Component Number: 2360

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By: Don Habeger, Director	Phone: (907)465-2536
Division: Corporations, Business and Professional Licensing	Date: 02/07/2014 10:30 AM
Approved By: Jeanne Mungle, Director	Date: 02/07/14
Agency: Administrative Services Director	

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSHB 269(HSS)

**Analysis**

HB269 amends AS 09.65.300(a) and AS 09.65.300(c)(1) so that a healthcare provider who holds a temporary courtesy license under AS 08.01.062 will not be liable for civil damages arising from an act or omission during the provision of free medical care.

The Division of Corporations, Business, and Professional Licensing does not anticipate fiscal impact from this legislation.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSHB 269(HSS)  
Fiscal Note Number: 2  
(H) Publish Date: 2/17/14

Identifier: HB269-LAW-CIV-02-07-14  
Title: IMMUNITY FOR TEMP. HEALTH CARE PROVIDER  
Sponsor: THOMPSON  
Requester: (H) HSS

Department: Department of Law  
Appropriation: Civil Division  
Allocation: Torts & Workers' Compensation  
OMB Component Number: 2719

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
---------------------------	--	--	--	--	--	--	--

**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial version, not applicable.

Prepared By:	Loretta Withington, Division Operations Manager	Phone:	(907)465-5427
Division:	Administrative Services Division	Date:	02/07/2014 06:20 PM
Approved By:	Michael C. Geraghty, Attorney General	Date:	02/07/14
Agency:	Department of Law		

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSHB 269(HSS)

**Analysis**

Existing law protects health care providers from liability for services they provide voluntarily and without compensation, under certain circumstances. This bill would expand this statutory immunity to cover health care providers who have a temporary courtesy license under AS 08.01.062. This bill has no fiscal impact on the Department of Law.



## Alaska Dental Society, Inc.

9170 Jewel Lake Road, Suite 203  
Anchorage, Alaska 99502-5390  
(907) 563-3003 • FAX: 563-3009  
akdental@alaska.net

### HB269

#### Courtesy License Immunity Bill

- Provides protection for Health Care Providers licensed in another state who do pro bono work in Alaska.
- AS 09.65.300 already provides protection for Alaska licensed health care practitioners delivering pro bono care.
- Clarifies 09.65.300 covers holders of a courtesy license have protection under 09.65.300.
  - Review of 09.65.300 by Attorney General's office indicated it would take a court case to definitively decide if courtesy licenses had protection.
- The Alaska Dental Society will be holding a Mission of Mercy event April 11 and 12<sup>th</sup>.
  - Mission of Mercy will deliver dental free care to as many people as we can accommodate over 2 days.
  - 180 dentists are participating, 7 for outside Alaska
  - 7 Military dentists from JBER have signed up to participate. Military dentists do not carry malpractice insurance and will be unable to participate without this protection.
  - South Central Foundation dentists would like to participate but, like military dentists, they do not carry malpractice and currently are unable to participate.
- Immunity under 09.65.300 is not absolute but provides protection for health care providers delivering care under standard of care guidelines.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

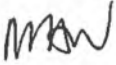
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 26, 2014

**SUBJECT:** Questions regarding HB 269  
(Work Order No. 28-LS1251\N)

**TO:** Representative Wes Keller  
Attn: Ernest Prax

**FROM:** Megan A. Wallace   
Legislative Counsel

This memorandum serves as a response to a list of questions you sent regarding HB 269.

*1. Does the bill affect AS 08.01.063, Military Courtesy Licenses?*

No, not specifically, but the bill may create some ambiguity as it relates to the application of AS 09.65.300(a) to temporary courtesy license holders, since the bill only specifically includes one type of temporary courtesy license in the definition of "health care provider." Because the bill only includes one type of temporary courtesy license, a court may interpret the change to mean that other types of temporary courtesy licenses are excluded from AS 09.65.300(a). Military courtesy licenses may not fall under AS 08.01.063, so there is a chance a court could find that those license holders are not subject to AS 09.65.300(a).

Nevertheless, a health care provider issued a temporary courtesy license under AS 08.01.063 is still "licensed in this state to provide health care services." While, in my opinion, AS 09.65.300(a) would still apply to a health care provider issued a temporary courtesy license under AS 08.01.063, regardless of the changes made by HB 269, so long as the provider met the requirements of AS 09.65.300(a)(2) - (a)(5), it is uncertain whether a court would reach the same conclusion.

Please keep in mind that AS 08.01.063 provides for a temporary courtesy license to a spouse of an active duty member of the armed forces under certain circumstances and is not limited to health care providers. AS 09.65.300(a) would only be applicable to persons issued a temporary courtesy license under AS 08.01.063 who were also health care providers.

*2. Temporary licenses can be granted under AS 08.20.160, AS 08.20.163, AS 08.64.270, AS 08.64.275 and AS 08.68.210. Will they be affected by HB 269?*

Not specifically, but as stated above, the bill may create some ambiguity as it relates to inclusion of these temporary courtesy licenses under AS 09.65.300(a), since the bill only

Representative Wes Keller  
February 26, 2014  
Page 2

specifically includes temporary courtesy licenses issued under AS 08.01.062 in the definition of "health care provider." As explained in response to question 1, there is a chance that a court could interpret the language of HB 269 to mean that only persons holding temporary courtesy licenses issued under AS 08.01.062 are eligible for the immunity provided under AS 09.65.300 and that other temporary courtesy license holders are not.

*3. Since HB 269 alters AS 08.01.062 and the licenses issued are under regulation for various boards that issue courtesy licenses -- 12 AAC 28.955, 12 AAC 16.205, 12 AAC 40.045 and 12 AAC 44.318 -- will the effect be confined to those licenses issued solely as courtesy licenses?*

HB 269 does *not* alter AS 08.01.062. HB 269 merely attempts to clarify the definition of "health care provider" under AS 09.65.300(a).

Temporary courtesy licenses issued to persons other than nonresidents may be affected, as HB 269 creates an ambiguity as to temporary courtesy licenses issued outside of AS 08.01.062 (providing the Department of Commerce, Community, and Economic Development the authority to establish criteria by regulation for the issuing of temporary courtesy licenses "to nonresidents who enter the state so that, on a temporary basis, they may practice the occupation regulated by the board or the department"). The effect, however, is limited to whether AS 09.65.300 applies to those other temporary courtesy license holders.

HB 269 should have no effect on the regulation of any temporary courtesy licenses.

*4. If the Answer to 2 is yes, will this be resolved by dropping "temporary" from page 1, line 10 in HB 269?*

No. By only dropping "temporary" from this line, there is still some ambiguity relating to the application of AS 09.65.300 to those holding "courtesy licenses" under a provision other than AS 08.01.062. In my opinion, an amendment to AS 09.65.300(a)(1) is unnecessary altogether because a health care provider who is issued any type of temporary courtesy license would already be considered a licensed health care provider under existing AS 09.65.300(a)(1).

If an amendment is still desired and the intent is to make it clear that the immunity provided in AS 09.65.300(a)(1) is to apply to any health care provider holding any temporary courtesy license, then I would recommend revising the language in sec. 1 to read: **"in this paragraph. "health care provider" includes a health care provider who holds a temporary license or permit."**

If the intent is to permit the application of AS 09.65.300 to temporary courtesy license holders, but only if the temporary courtesy license is issued under AS 08.01.062, then different language should be used to make this intent clear.

Representative Wes Keller  
February 26, 2014  
Page 3

*5. What protection do military health care providers have under the Federal Claims Tort Act? If they are practicing off base, under a courtesy license and not in an official capacity, what protection would they have under the Federal Claims Tort Act?*

I am uncertain what "protection" you are referring to.

The bill at issue provides protections to health care providers in the form of immunity from civil damages where health care services are provided for free and the other requirements of AS 09.65.300(a)(1) - (a)(5) are met.

The Federal Claims Tort Act provides that U.S. district courts "shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. sec. 1346 (b)(1).

Using the hypothetical provided, it is my opinion that if the military health care provider was not practicing in an official capacity, he or she would likely not be considered to be "acting within the scope of his office or employment," and the U.S. district courts would not have exclusive jurisdiction over any such claim.

The Federal Claims Tort Act also provides the exclusive remedy for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the government while acting within the scope of his office or employment. *See* 28 U.S.C. sec. 2679. No other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim is permitted. *Id.* Again, however, if the health care provider is not acting within the scope of his office or employment, the Federal Claims Tort Act will likely offer no protection.

The opinions expressed above are the product of a short review of the Federal Claims Tort Act. If an individual federal employee has questions as to whether they are subject to or protected by the Federal Claims Tort Act, I highly recommend that they consult their supervisor or an attorney in the applicable federal office or department.

MAW:lem  
14-092.lem

# LEGAL SERVICES

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STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

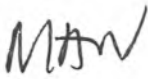
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 13, 2014

**SUBJECT:** Immunity for dentists issued temporary licenses  
(CSHB 269( ) ; Work Order No. 28-LS1251\U)

**TO:** Representative Steve Thompson  
Attn: Jane Pierson

**FROM:** Megan A. Wallace   
Legislative Counsel

You have asked for an opinion as to whether a dentist issued a temporary license would have immunity under AS 09.65.300(a) under the current draft legislation.

CSHB 269( ) explicitly extends the immunity granted in AS 09.65.300(a) to "a health care provider who holds a temporary license . . . under AS 08.01.062." Further, CSHB 269( ) includes "dentist" in the definition of "health care provider," without regard to whether the dentist is licensed in-state, out-of-state, or under a temporary license.

In its current form, AS 09.65.300(a) reads:

(a) Except as otherwise provided in this section, a health care provider who provides health care services to another person is not liable for civil damages resulting from an act or omission in providing the health care services if the health care

(1) provider is licensed in this state to provide health care services;

(2) services provided were within the scope of the health care provider's license;

(3) services were provided at a medical clinic, medical facility, nonprofit facility, temporary emergency site, or other facility owned or operated by a governmental entity or nonprofit organization and the health care provider was acting within the scope of the provider's responsibilities in the medical clinic, governmental entity, or nonprofit organization;

(4) services were provided voluntarily and without pay to the health care provider for the services, except as provided in (b)(2) and (3) of this section; and

Representative Steve Thompson  
February 13, 2014  
Page 2

(5) provider

(A) obtains informed consent from the person receiving the health care services as described under AS 09.55.556, except in the case of an emergency; and

(B) provides the person receiving the health care services advance written notice of the immunity provided under this section to a health care provider when providing voluntary health care services as described under this section.

In my opinion, a dentist issued a temporary license would clearly meet the criteria of (a)(1) under CSHB 269( ). Therefore, so long as the dentist met the criteria articulated in (a)(2) - (5), the dentist would qualify for immunity under AS 09.65.300(a).<sup>1</sup>

Please let me know if you have any other questions.

MAW:lnd  
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<sup>1</sup> Please also see our memorandum on this issue dated January 13, 2014 from Hilary Martin that reaches a similar conclusion.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

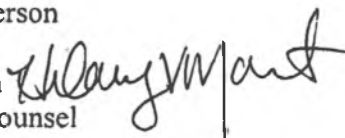
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 13, 2014

**SUBJECT:** Immunity for nonresident health care providers who have been issued temporary courtesy licenses (Work Order No. 28-LS1251\A)

**TO:** Representative Steve Thompson  
Attn: Jane Pierson

**FROM:** Hilary Martin   
Legislative Counsel

This memo accompanies the draft bill you requested to provide immunity for a nonresident health care provider who provides health care services under the conditions set out in AS 09.65.300.

I believe that the amendment is unnecessary because a person who is issued a temporary license to provide health care under AS 08.01.062 would already be considered a licensed health care provider under existing AS 09.65.300(a)(1). Note that the bill provides that the immunity only applies to a health care provider, not to any occupation regulated by a board or department under AS 08.01.062.

Finally, please be aware of the temporary permitting for a locum tenens practice under AS 08.64.275, which allows a member of the state medical board or its executive secretary to grant a temporary permit to a physician or osteopath licensed in another state, territory, or province to substitute for another physician in the state. I am not sure how the temporary licensing and temporary permitting work together, but you might want to include a reference to this section in order to clarify whether a locum tenens is included as a licensed health care provider under AS 09.65.300.

If I may be of further assistance, please advise.

HVM:lem  
14-009.lem

Enclosure



THE STATE  
of **ALASKA**

GOVERNOR SEAN PARNELL

Department of Law

CIVIL DIVISION

1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501  
Main: 907.269.5100  
Fax: 907.276.3697

August 19, 2013

David Logan, DDS  
2237 North Jordan Ave.  
Juneau, AK 99801

Dear Dr. Logan:

Your June 14, 2013 letter to the Attorney General regarding Alaska's immunity statute for health care providers has been referred to me. I am an assistant attorney general in the Attorney General's Office in Anchorage and I represent the Division of Corporations, Business and Professional Licensing in disciplinary proceedings against licensed professionals, such as dentists.

You have inquired (1) whether a courtesy license issued by the Board of Dental Examiners is considered a State of Alaska professional license, (2) whether a nonresident dentist or dental hygienist who has been issued a courtesy license is considered to be a provider "licensed in this state to provide health care services" under AS 09.65.300(a)(1), and (3) whether, under AS 09.65.300, immunity is extended to professionals who have been issued a courtesy license by the Board of Dental Examiners. With regard to the first question, we answer in the affirmative. As to your second and third questions, we cannot provide you with a definite answer, as the above immunity statute has never been interpreted by the Alaska Supreme Court.

As to your first question, all professional boards may establish criteria for issuing temporary courtesy licensees to nonresidents who enter the state so that, on a temporary basis, they may practice the occupation regulated by that board. AS 08.01.062(a). As you have noted, the Board of Dental Examiners has established such criteria for a courtesy license under 12 AAC 28.955. While limited in scope and time, the holder of the courtesy license is nevertheless obligated to uphold the standards of practice identified in AS 08.32 (which covers dental hygienists) and AS 08.36 (which covers dentists) and is subject to all the relevant disciplinary provisions found in AS 08.32 and AS 08.36 while practicing under the courtesy license. 12 AAC 28.955(g). Therefore, since the holder of a courtesy license is subject to the same standards of practice as a dental hygienist licensed under AS 08.32 or a dentist licensed under AS 08.36, and is subject to the same disciplinary provisions as those hygienists and dentists, we would consider a courtesy license issued by the Board of Dental Examiners to be a professional license. You should also be aware that such disciplinary provisions would apply even if a courtesy license holder were determined not to be liable for civil damages under AS 09.65.300, discussed below.

The answer to your other two questions involve the interpretation of AS 09.65.300, the Volunteer Health Care Provider Immunity Act of 2004. The ultimate interpretation of this statute will have to come from the courts. That interpretation is likely to occur in the course of private litigation, for example between an allegedly injured patient and the patient's dentist. Because the meaning of the law will be interpreted by a court, and not the Attorney General's Office, you should retain private counsel to advise you on the possible outcome of a judicial interpretation.

To assist you and your counsel, we have reviewed the legislative history of AS 09.65.300. As set forth below, the original purpose of the statute was to allow retired physicians to volunteer their services:

The legislature finds that

(1) many of the state's most senior and experienced physicians will be retiring in the next five to 10 years; retiring physicians deciding to reside in Alaska could continue to benefit our local communities by volunteering their medical services;

(2) historically, Alaska has had difficulty in attracting and maintaining adequate numbers of qualified physicians; currently, Alaska ranks 49<sup>th</sup> in the number of physicians per capita, while Alaska's physicians continue to grow older, reaching an average age of 51 years;

(3) without civil liability protection, retired physicians would be unwilling to provide free services to the indigent and elderly;

(4) 43 states have enacted legislation limiting liability for retired physicians, thus encouraging retired physicians to continue in providing voluntary medical services; and

(5) removing liability requirements for retired physicians would be in the best interests of the state; retired physicians unhindered by expensive malpractice insurance would be more inclined to volunteer necessary and important medical services to all Alaskans.

§ 2, ch. 56 SLA (2004), 2004 Temporary and Special Acts.

This legislative finding adds some degree of confusion. By its terms, AS 09.65.300 provides that a "health care provider" who provides health care services to another person is not liable for civil damages resulting from an act or omission in providing the health care services, so long as five conditions are met, one of them being that the provider is "licensed in this state to provide health care services."

AS 09.65.300(a)(1). Although the legislature only used the word "physicians" when describing its purpose, the plain wording of the statute defines "health care provider" much more broadly than just physicians; it specifically includes dentists and dental hygienists. AS 09.65.300 (c)(1). The legislative findings also only discuss retired

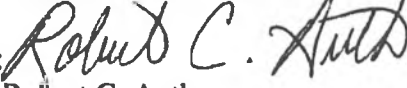
physicians residing in Alaska, not actively practicing out of state professionals who travel to Alaska and obtain a courtesy license for a specific event. On the other hand, the health care provider need only be "licensed in this state to provide health care services" to meet the criteria in AS 09.65.300 (a)(1) and a courtesy license could be interpreted to meet that criteria, especially given our view that a courtesy license is a professional license for the purpose of enforcing state disciplinary provisions. Also, during a legislative hearing on AS 09.65.300, one legislator, in response to a question about what "retired" meant, stated that the legislation meant that the health care provider, "retired or not", was providing services for free. Hearing on H.B. 260, before the House Labor & Commerce Committee, April 28, 2003. We did not find any testimony before any legislative committee that reflected an intent to exclude out of state professionals holding courtesy licenses from operation of the statute.

While we cannot definitively answer your question regarding the interpretation and application of AS 09.65.300(a)(1), we believe a compelling argument can be made that immunity would be extended to out of state professionals who have been issued a courtesy license, based on the plain language of the statute and the legislative history. We appreciate your efforts in organizing the Mission of Mercy event. We also understand that a presentation about the event was made to the Board of Dental Examiners at their May 3, 2013 meeting and, as indicated in the meeting minutes, the Board plans to write a letter of support.

If you have any questions about this letter, you can reach me at 269-5200.

Sincerely,

MICHAEL C. GERAGHTY  
ATTORNEY GENERAL

By:   
Robert C. Auth  
Assistant Attorney General

RCA/mrr



## **Alaska Pharmacists Association**

February 19, 2014

Honorable Steve Thompson  
Alaska House of Representatives  
State Capital Room 500  
Juneau, AK 99801

RE: House Bill 269  
Provides Protection for Health Care Providers Licensed in Another State Doing Pro Bono  
Work in Alaska

Dear Representative Thompson,

The Alaska Pharmacists Association (AKPhA) is in support of HB 269. AKPhA represents pharmacists throughout the state in various practice areas. The association thanks you for introducing HB 269 and urges the Alaska Legislature to pass HB 269. Extending the immunity protection provided in AS09.65.300 to courtesy license holders will encourage health care providers to travel to Alaska and provide care to underserved populations.

The association plans to continue following the progress of HB 269.  
Please let us know if we can be of assistance in passing this legislation.

Sincerely,

Julie McDonald, Pharm.D.  
President

E-mail: [akphrmcv@alaska.net](mailto:akphrmcv@alaska.net)

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203 W. 15<sup>th</sup> Ave., Suite 100 • Anchorage, Alaska 99501 • (907) 563-8880 • (907) 563-7880

# FREE DENTAL CARE

## Alaska Mission of Mercy (AKMOM)



- Free dental care for up to 2,000 patients in just two days!
- Children and adults
- First come, first served
- No application process, no income limitations
- Patient information at [www.akmom.org](http://www.akmom.org)
- Like us on Facebook! [www.facebook.com/AKMissionOfMercy](http://www.facebook.com/AKMissionOfMercy)

**Friday - April 11, 2014**

**Saturday - April 12, 2014**

Dena'ina Center

6 a.m. to 6 p.m.

600 W. 7th Ave., Anchorage

***Bring your own snacks***

*Brought to you by the Alaska Dental Society*



Anchorage Rotary



Alaska Dental Society



The main goal of the Alaska Mission of Mercy is to relieve pain and infection. It's unlikely that all of your dental needs will be met at this clinic. Your most immediate need will be addressed. Multiple procedures such as fillings AND extractions are not likely because we are trying to provide care to as many people as possible. You will receive a list of community dental resources where you can continue your dental care. Your patience and understanding is appreciated.

**SERVICES AVAILABLE AT THE CLINIC**

1. Cleanings
2. Fillings
3. Extractions (pulling teeth)
4. As time permits, flippers (like retainers with front teeth)
5. As time permits, denture and partial repairs
6. As time permits, root canals on front teeth

**SERVICES *NOT* AVAILABLE AT THE CLINIC**

1. Implants
2. Braces
3. Impacted wisdom tooth extractions (pulling of teeth not visible in the mouth)
4. Cosmetic porcelain veneers
5. Crowns (caps)
6. Bridges
7. Dentures
8. No narcotics will be dispensed

701 West 8th Avenue, Suite 230  
Anchorage, Alaska 99501  
tel 907.263.3800  
fax 907.263.3801  
www.unitedwayofanchorage.org



United Way of Anchorage

February 11, 2014

Representative Steve Thompson  
State Capitol Room 500  
Juneau, AK 99801

**RE: Letter of Support for HB269 - IMMUNITY FOR TEMPORARY HEALTH CARE PROVIDER**

Dear Representative Thompson,

The Volunteer Health Care Provider Immunity Act of 2004 has and continues to give Alaska licensed health care providers statutory immunity against civil damages resulting from an act or omission when they provides free health care services, within the scope of their license. This act is a significant support in delivering pro bono services to individuals without insurance or public benefits. Hundreds of Alaskans have received free health care because of this law.

Please extend this immunity to individuals who have acquired a temporary health care provider license to expand the number of individuals able to provide pro bono health services to Alaskans. By extending this immunity the Alaska Legislature will remove one of the roadblocks for health care providers to travel to Alaska and participate in pro bono clinics that provide care for underserved populations. Additionally, the bill would provide members of our military who are serving in Alaska a way to donate their services.

Alaskans have a strong commitment to volunteering. In 2012, the Corporation for National and Community Services reports that 196,310 or 33.2% of Alaska residents volunteer, ranking Alaska 12th among the 50 states and Washington, DC. The average volunteer hours per resident - 52.3 hours. By extending the statutory immunity to volunteers from other locations, Alaska will provide protection for those from other locations who have a calling to volunteer in Alaska as well.

Thank you,



Michele Brown  
President

**LIVE UNITED.**



# ALASKA NATIVE MEDICAL CENTER



To Whom it May Concern

Southcentral Foundation and Alaska Native Medical Center Dental Service support HB269 which provides immunity for health care providers doing pro bono work. Alaska licensed health care providers already have immunity and extending this immunity to courtesy license holders is a natural extension of AS09.65.300. Despite advances in the number of people with health insurance there remains a sizable population without access to regular health care. By extending this immunity the Alaska Legislature will remove one of the roadblocks for health care providers to travel to Alaska and participate in clinics that provide care for underserved populations.

Sincerely

Dr. Kevin Gottlieb DDS  
Vice President  
Resource and Development

Dr. Tom Kovaleski DDS  
Dental Director

# Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

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February 10, 2014

Honorable Steve Thompson  
Alaska House of Representatives  
State Capital Room 500  
Juneau, AK 99801

RE: House Bill 269

Dear Representative Thompson:

The Alaska State Medical Association (ASMA) represents physicians statewide and is primarily concerned with the health of all Alaskans.

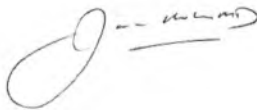
Thank you for introducing HB 269. ASMA supports the effort to clarify current language and asks the Alaska Legislature to pass HB 269.

In 2004, with broad support from the medical community, the Alaska Senate voted 19-1 and the Alaska House of Representatives voted 35-2 to enact House Bill 260 joining over 40 states at the time in providing some immunity for health care services provided free of charge.

We believe the language in HB 269 clarifying that "courtesy licenses" are protected under the current statutory framework is appropriate and consistent with the policy in current law.

Please let us know if there is anything we can do to further support passage of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jana Cole", with a horizontal line extending to the right.

Jana Cole, MD  
President For: The Alaska State Medical Association

department after consultation with and consideration of the views of the board concerned.

(c) *[Repealed, § 49 ch 94 SLA 1987.]*

(d) At the request of one of the following boards, the department may contract with public agencies and private professional organizations to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances:

- (1) Board of Social Work Examiners;
- (2) Board of Dental Examiners;
- (3) Board of Marital and Family Therapy;
- (4) State Medical Board;
- (5) Board of Nursing;
- (6) Board of Examiners in Optometry;
- (7) Board of Pharmacy;
- (8) State Physical Therapy and Occupational Therapy Board;
- (9) Board of Professional Counselors;
- (10) Board of Psychologist and Psychological Associate Examiners; and
- (11) Board of Veterinary Examiners. (§ 1 ch 59 SLA 1966; am § 1 ch 102 SLA 1976; am § 39 ch 218 SLA 1976; am § 2 ch 258 SLA 1976; am §§ 1, 2 ch 49 SLA 1980; am § 1 ch 82 SLA 1980; am § 2 ch 141 SLA 1980; am § 1 ch 166 SLA 1980; am § 1 ch 48 SLA 1983; am § 3 ch 56 SLA 1986; am § 3 ch 131 SLA 1986; am § 2 ch 74 SLA 1987; am § 21 ch 87 SLA 1987; am §§ 4, 49 ch 94 SLA 1987; am § 2 ch 45 SLA 1988; am § 2 ch 98 SLA 1988; am § 4 ch 6 SLA 1990; am § 1 ch 99 SLA 1990; am § 1 ch 34 SLA 1992; am § 2 ch 101 SLA 1994; am § 2 ch 91 SLA 1995; am § 2 ch 33 SLA 1996; am § 4 ch 32 SLA 1997; am § 3 ch 75 SLA 1998; am § 3 ch 118 SLA 1998; am § 1 ch 152 SLA 2003; am § 4 ch 19 SLA 2008)

**Revisor's notes.** — Minor word changes were made in 1986 to reconcile amendments made to (a)(4) and (a)(9) of this section by chapters 56 and 131, SLA 1986. In 2010, former paragraph (d)(12) was renumbered as (d)(3) to retain alphabetical order.

**Cross references.** — For construction of the 1996 amendments, see § 15, ch. 33, SLA 1996 in the Temporary and Special Acts. For transitional provisions relating to the 1996 amendments, see § 13 and

14, ch. 33, SLA 1996 in the Temporary and Special Acts. For transition provisions relating the 1998 amendments to subsection (d) by § 3, ch. 75, SLA 1998, see § 7, ch. 75, SLA 1998 in the 1998 Temporary and Special Acts.

**Effect of amendments.** — The 2008 amendment, effective July 18, 2008, repealed former paragraph (d)(3), which read, "Board of Dispensing Opticians."

**Sec. 08.01.060. Application for license.** (a) All applications for examination or licensing to engage in the business or profession covered by this chapter shall be made in writing to the department.

(b) If the applicant is a natural person, the application must require that the applicant submit the applicant's social security number to the department. Notwithstanding any other provision of this title, a license to engage in a profession may not be issued by the department to a natural person unless the social security number has been provided to the department. (§ 1 ch 59 SLA 1966; am § 6 ch 87 SLA 1997)

**Collateral references.** — Right of person wrongfully refused license upon proper application therefor to do act for which license is required, 30 ALR2d 1006.

**Sec. 08.01.062. Courtesy licenses.** (a) A board established under this title and the Department of Commerce, Community, and Economic Development, with respect to an occupation that it regulates under this title, may by regulation establish criteria for issuing a temporary courtesy license to nonresidents who enter the state so that, on a temporary basis, they may practice the occupation regulated by the board or the department.

(b) The regulations adopted under (a) of this section may include limitations relating to the

- (1) duration of the license's validity;
- (2) scope of practice allowed under the license; and
- (3) other matters considered important by the board or the department. (§ 2 ch 126 SLA 1990)

**Revisor's notes.** — Formerly AS 08.02.030. Renumbered in 1998.

In 1999, "Department of Commerce and Economic Development" was changed to "Department of Community and Economic Development" in (a) of this section in accordance with § 88, ch. 58, SLA 1999.

In 2004, "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development" in (a) of this section in accordance with § 3, ch. 47, SLA 2004.

**Sec. 08.01.063. Military courtesy licenses.** (a) Except as provided in (d) of this section, and notwithstanding another provision of law, the department or appropriate board may issue a temporary courtesy license to the spouse of an active duty member of the armed forces of the United States if the spouse applies to the department or appropriate board in the manner prescribed by the department or appropriate board. An application must include evidence satisfactory to the department or appropriate board that the applicant

- (1) is married to and living with a member of the armed forces of the United States who is on active duty and assigned to a duty station in this state under official active duty military orders;
  - (2) holds a current license or certificate in another state, district, or territory of the United States with requirements that the department or appropriate board determines are equivalent to those established under this title for that occupation;
  - (3) if required by the department or appropriate board for obtaining a license in the applicant's profession, has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;
  - (4) has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation under this title at the time the act was committed;
  - (5) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and
  - (6) pays any fees required under this title.
- (b) The department or appropriate board shall expedite the procedure for issuance of a license under (a) of this section.
- (c) A temporary courtesy license issued under this section is valid for 180 days and may be extended at the discretion of the department or appropriate board for one additional 180-day period, on application of the holder of the temporary courtesy license.
- (d) This section does not apply to the practice of law or the regulation of attorneys under AS 08.08. (§ 1 ch 25 SLA 2011)

**Effective dates.** — Section 1, ch. 25, SLA 2011, which enacted this section, took effect on September 25, 2011.

**Sec. 08.01.065. Establishment of fees.** (a) Except for business licenses, the department shall adopt regulations that establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by this chapter.

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## HB 269 Medical Boards and temporary licenses or permits.

AS 08.01.062 Courtesy Licenses. Gives Boards the ability under regulation establish criteria for issuing temporary courtesy licenses.

### **Chiropractors AS 08.20:**

AS 08.20.160. Temporary permits -Temporary permits may be issued to persons apparently qualified until the next regular meeting of the board.

AS 08.20.163. Temporary permit for locum tenens practice (a) The board may grant a temporary permit to a chiropractor for the purpose of the chiropractor's substituting for another chiropractor licensed in this state. The permit is valid for 60 consecutive days. If circumstances warrant, an extension of the permit may be granted by the board.

(b) A chiropractor applying under (a) of this section shall pay the required fee and shall meet the (1) requirements of AS 08.20.120; or

(2) following requirements:

(A) submit evidence of a current license in good standing, including

(i) no action reported in the national licensee database of the Federation of Chiropractic Licensing Boards;

(ii) not having been, within the five years preceding the date of application, the subject of an unresolved review or an adverse decision based upon a complaint, investigation, review procedure, or disciplinary proceeding undertaken by a state, territorial, local, or federal chiropractic licensing jurisdiction, chiropractic society, or law enforcement agency that relates to criminal or fraudulent activity, chiropractic malpractice, or negligent chiropractic care and that adversely reflects on the applicant's ability or competence to engage in the practice of chiropractic or on the safety or well-being of patients; and

(iii) no conviction for a felony within the five years preceding the date of application;

(B) submit evidence of five years of active licensed clinical practice;

(C) be a graduate of a school or college of chiropractic that is accredited by or a candidate for accreditation by the Council on Chiropractic Education or a successor accrediting agency recognized by the board;

(D) have completed 120 hours of formal training in physiological therapeutics or have passed, to the satisfaction of the board, a physiological therapeutic examination of the National Board of Chiropractic Examiners required by the board;

(E) have passed, to the satisfaction of the board, Parts I and II of the examination of the National Board of Chiropractic Examiners; and

(F) pass an examination given by the board.

(c) Permits and extensions of permits issued under this section to an individual are not valid for more than 240 days during any consecutive 24 months.

### **Dentists: 08.36**

AS 08.01.062. Temporary courtesy licenses

### **Medical (Physicians) 08.64:**

AS 08.64.270. Temporary permits (a) The board may issue a temporary permit to a physician applicant, osteopath applicant, or podiatry applicant who meets the requirements of AS 08.64.200, 08.64.205, 08.64.209, or 08.64.225 and pays the required fee.

(b) A temporary permit issued under this section is valid for six months and shall be reviewed by the board at the next regularly scheduled board meeting that occurs after its issuance.

(c) A temporary permit issued under this section may not be renewed.

(d) The fee for a permit issued under this section is one-fourth of the fee for a biennial license, plus the appropriate application fee.

(e) Upon application by the permittee and approval of the board, a permit issued under this section may be converted to a biennial license upon payment of the biennial fee minus the six-month permit fee paid under (d) of this section, plus the appropriate application fee.

AS 08.64.275. Temporary permit for locum tenens practice (a) A member of the board or its executive secretary may grant a temporary permit to a physician or osteopath for the purpose of

(1) substituting for another physician or osteopath licensed in this state;

(2) being temporarily employed by a physician or osteopath licensed in this state while that physician or osteopath evaluates the permittee for permanent employment; or

(3) being temporarily employed by a hospital or community mental health center while the facility attempts to fill a vacant permanent physician or osteopath staff position with a physician or osteopath licensed in this state.

(b) A physician applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.279 and the requirements of either AS 08.64.200 or 08.64.225. In addition, the physician shall submit evidence of holding a license to practice medicine in a state or territory of the United States or in a province or territory of Canada.

(c) An osteopath applying under (a) of this section shall pay the required fee and shall meet the requirements of AS 08.64.205 and 08.64.279. In addition, the osteopath shall submit evidence of

holding a license to practice in a state or territory of the United States or in a province or territory of Canada.

(d) Within 10 days after the permit has been granted, the board member shall forward to the department a report of the issuance of the permit.

(e) A permit issued under this section is initially valid for 90 consecutive calendar days. Upon request by a permittee, a permit issued under this section shall be extended for 60 calendar days by the board or its designee if, before the expiration of the initial 90-day permit, the permittee submits to the department a completed application form and the fee required for licensure under this chapter, except that the board may refuse to grant a request for an extension for the same reasons the board may refuse to grant a license under AS 08.64.240. Permits and extensions of permits issued to an individual under this section are not valid for more than 240 calendar days during any consecutive 24 months.

(f) Notwithstanding (e) of this section, a permit issued under this section may be extended by the board or its designee for a time period that exceeds the limit established in (e) of this section if the board or its designee determines that the extension is necessary in order to provide essential medical services for the protection of public health and safety and the board has received a

(1) clearance report from the National Practitioner Data Bank;

(2) physician profile from the American Medical Association or the American Osteopathic Association;

(3) clearance report from the United States Drug Enforcement Administration; and

(4) completed application form and the fee required for licensure under this chapter.

### **Nurses 08.68:**

AS 08.68.210. Temporary permits (a) The board may issue a temporary permit, nonrenewable and valid for a period not exceeding six months, to an applicant for a license by endorsement if the applicant

(1) submits proof satisfactory to the board that the applicant is currently licensed in another state or Canadian province or Canadian territory that administers an examination approved by the board under AS 08.68.200(a)(2);

(2) meets the requirements of AS 08.68.170; and

(3) pays the required fee.

(b) The board may issue a nonrenewable permit to an applicant for license by examination if the applicant (1) meets the qualifications of AS 08.68.170; or (2) is a graduate of a foreign school of nursing and has successfully completed the examination administered by the Commission on

Graduates of Foreign Nursing Schools. The permit is valid for a period not extending beyond the time when the results are published of the first examination the applicant is eligible to take after the permit is issued; however, if the applicant does not take the examination for which the applicant is scheduled, the permit lapses on the day of the examination.